

## **REMARKS**

### **The Pending Claims and the Amendments to the Claims**

With the entry of the amendments above, the pending claims are Claim 1-9 and 11-26. Each of Claims 1-9 has been amended to recite the gas barrier layer as consisting essentially of at least one member selected from the group consisting of polyamide, hydrolyzed ethylene/vinyl acetate copolymer, polyacrylonitrile, and polycycloolefin. Support for this amendment can be found in the specification at, for example, Page 5 lines 6-8 and Page 29 lines 13-15. In addition, Claim 10 stands canceled because the composition of the barrier layer has been added to all of the independent claims. Dependent claims 11-25 have been amended to depend from Claim 1, rather than from Claim 8. Support for new Claim 26 can be found in the specification at, for example, Page 4 lines 8-20 taken in combination with Page 8 lines 5-13 taken together with page 31 lines 4-8. The amendments include no new matter.

### **The Reason for the Amendments to the Claims**

An office action in Applicants' corresponding European Patent Application No. 03026182.0 sets forth a rejection of Applicants' claims as anticipated by EP 1 338 413 A1, which is already of record in the instant application. However, the European examiner has relied upon the content of paragraphs 34 and 49 of EP '413. More particularly, in setting forth the rejection of Applicants' claims, the European examiner states that Plexar PX5332 (disclosed in paragraph 34 of EP '413) would be assumed to have anhydride content of at least 150 ppm. After the office action was received, a sample of Plexar PX5332 was obtained and analyzed for anhydride content. The analysis indicated that Plexar PX 5332 contained an anhydride content of about 1500 ppm, i.e.,

Plexar PX 5332 is within the scope the phrase “at least 150 ppm” recited in Applicants’ Claim 1.

As a result, Applicants have hereinabove amended each of independent claims 1-9 to recite the barrier layer as consisting essentially of one or more of various barrier polymers. Recycled polyester is notably absent from this listing. As such, Claims 1-9, and all claims depending therefrom, are not anticipated by EP ‘413 because EP ‘413 requires that the barrier layer contain recycled polyester.

New independent Claim 26 is not anticipated by EP ‘413 because it recites the tie layer as having an anhydride content of from 150 to 1000 ppm. Again, the analysis of Plexar PX 5332 revealed an anhydride content of 1500 ppm, which is outside of the 150 to 1000 ppm range recited in new Claim 26.

Applicants point out that the instant application was filed 26 August 2003, i.e., one day before the EP ‘413 publication. Thus, EP ‘413 is not available as a reference against the claims of the instant application. However, EP ‘413 claims priority from USSN 10/082,635 filed 25 February 2002. Thus, the ‘635 application is available as a §102(e) reference because it is an earlier filed application of another. However, at the time the present invention was made, both the present invention and the invention disclosed in the ‘635 application were owned by the same person or subject to assignment to the same person. As such, the ‘635 application is not available for purposes of §103.

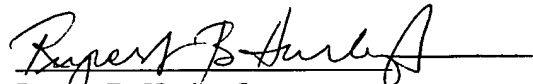
The IDS Submitted with this Preliminary Amendment

Each of the various documents listed in the IDS filed concurrently herewith was relied upon during the prosecution of USSN 09/934,732, entitled "Integrated Process for Making Inflatable Article".

Conclusion

Applicants respectfully request entry of the above amendments to the claims, as well as consideration of the above remarks and the accompanying IDS, with a view towards allowance of the claims.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Rupert B. Hurley Jr.", written over a horizontal line.

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